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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,399	09/11/2001	Carl-Eric Kaiser	7473	3793

27752 7590 12/02/2004

THE PROCTER & GAMBLE COMPANY
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EXAMINER

HARDEE, JOHN R

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,399

Applicant(s)

KAISER ET AL.

Examiner

John R. Hardee

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-16 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11-16 and 21-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 4, 2004 has been entered.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 28-31 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bacon et al., US 5,500,154. See Examples 5 and 6, which contain anionic, water solvent, ethanolamine, Perfumes A and B, and ethanol, which is a volatile material which is used in fragrances and which has a boiling point below 160 degrees C. Perfume B contains 20% of hexyl cinnamic aldehyde and 15% of lillial. These are aldehydes, and therefore capable of forming Schiff bases with ethanolamine. In the absence of any guidance to the contrary in the specification, the examiner takes the position that 35% of aldehyde is "about 45%" of an odor neutralizer which is capable of forming a Schiff base when reacted with the amine.

Claim Rejections - 35 USC § 103

4. Claims 11-16 and 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bacon et al., US 5,500,154. The reference discloses detergent compositions comprising enduring perfumes. See Examples 5 and 6, which contain anionic surfactant, ethanol solvent, monoethanolamine, which meets the pKa limitations and perfumes which meet the limitations of claims 13-15 and 21. Amphoterics may be added (col. 7, lines 18+). These compositions are free of hydrogen peroxide. Builders, including EDTA, a diamine, may be added at about 5-50% of liquid formulations (col. 7, lines 39+; col. 9, line 23). While no specific range of amphoteric is disclosed, the examiner takes the position that the claimed ratios of amphoteric to anionic and diamine can be met by following the general teachings of the reference, which are that amphoteric may be any suitable proportion of the 0.01-95% of surfactant disclosed at col. 5, lines 55+. At Table 2, several perfume ingredients with boiling points below 180 degrees are disclosed. At the top of col. 4, the reference teaches that these materials are present, most preferably at less than 15% of the perfume compositions. Regarding claims 28-31, see the 102 rejection above. Regarding claim 32, note that the examples contain sodium hydroxide, an alkali metal inorganic salt and propanediol solvent. This reference differs from the claimed subject matter in that it does not disclose a composition which reads on all of applicant's claims with sufficient specificity to constitute anticipation.

It would have been obvious at the time the invention was made to make a composition comprising about 45% or more of an aldehyde, because the reference discloses at col. 3, lines 35+ that perfumes used in the invention contain at least about 70% of enduring perfume ingredients, and the disclosure of a number of such together in Table I amounts to an implicit teaching of their equivalence. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

In the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir. 1990).

Response to Arguments

5. Applicant's arguments filed November 4, 2004 have been fully considered but they are not persuasive. Applicant argues that the reference does not disclose or suggest the use of a perfume composition comprising about 45% or more of odor neutralizer. This is not found persuasive because, as noted above, the disclosed 35% of aldehyde meets the limitation of "about 45%". Furthermore, the enduring perfume ingredients in Table I are disclosed as generally being equivalents and one or more of same is present at 70% or more of the perfume used in the disclosed liquid detergents. Some are aldehydes and some are not. Use of a mixture of the enduring perfume ingredients is explicitly disclosed and exemplified. Accordingly, the person of ordinary

skill in the surfactant art could make a perfume composition comprising at least about 45% of enduring aldehyde by following the teachings of the reference.

6. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (571) 272-1316.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John R. Hardee
Primary Examiner
November 30, 2004